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White Black Legal – The Law Journal is an open-access, peer-reviewed, and refereed legal journal established to provide a scholarly platform for the examination and discussion of contemporary legal issues. The journal is dedicated to encouraging rigorous legal research, critical analysis, and informed academic discourse across diverse fields of law.

The journal invites contributions from law students, researchers, academicians, legal practitioners, and policy scholars. By facilitating engagement between emerging scholars and experienced legal professionals, *White Black Legal* seeks to bridge theoretical legal research with practical, institutional, and societal perspectives.

In a rapidly evolving social, economic, and technological environment, the journal endeavours to examine the changing role of law and its impact on governance, justice systems, and society. *White Black Legal* remains committed to academic integrity, ethical research practices, and the dissemination of accessible legal scholarship to a global readership.

AIM & SCOPE

The aim of *White Black Legal – The Law Journal* is to promote excellence in legal research and to provide a credible academic forum for the analysis, discussion, and advancement of contemporary legal issues. The journal encourages original, analytical, and well-researched contributions that add substantive value to legal scholarship.

The journal publishes scholarly works examining doctrinal, theoretical, empirical, and interdisciplinary perspectives of law. Submissions are welcomed from academicians, legal professionals, researchers, scholars, and students who demonstrate intellectual rigour, analytical clarity, and relevance to current legal and policy developments.

The scope of the journal includes, but is not limited to:

- Constitutional and Administrative Law
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- Corporate, Commercial, and Business Laws
- Intellectual Property and Technology Law
- International Law and Human Rights
- Environmental and Sustainable Development Law
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- Family Law, Labour Law, and Social Justice Studies

The journal accepts original research articles, case comments, legislative and policy analyses, book reviews, and interdisciplinary studies addressing legal issues at national and international levels. All submissions are subject to a rigorous double-blind peer-review process to ensure academic quality, originality, and relevance.

Through its publications, *White Black Legal – The Law Journal* seeks to foster critical legal thinking and contribute to the development of law as an instrument of justice, governance, and social progress, while expressly disclaiming responsibility for the application or misuse of published content.

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LEGAL PATHWAYS TO SOCIAL JUSTICE

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INTRODUCTION:

Social justice in India is based on the principle that the law should serve all citizens equally, with special attention to those who have faced discrimination or disadvantage over time. It seeks to ensure that factors such as caste, religion, or economic status do not limit a person's opportunities or deny them a fair chance to succeed. The Indian Constitution acts as a guiding framework that places a responsibility on the State to take positive action to support vulnerable and marginalized sections of society, rather than remaining passive.

The pursuit of social justice in India operates through three key mechanisms. First, the government enacts welfare and protective laws that function as social safeguards, such as employment guarantee schemes in rural areas and legal protections against workplace harassment. Second, the system of reservations provides representation for historically marginalized communities in education and public employment, helping to promote equality of opportunity. Third, the judiciary allows citizens to approach the courts on behalf of disadvantaged groups through public interest litigation. This ensures that access to justice is not limited to those with financial resources, but extends to all individuals, upholding their dignity and fundamental rights.

Legal Pathways to Social Justice in India: A Comprehensive Analysis

Social justice in India is not just an abstract idea discussed in theory; it is a practical and enforceable responsibility of the State. At the time of independence in 1947, the nation emerged from a social structure marked by rigid caste divisions, widespread poverty, and deep-rooted gender discrimination. The Constitution's framers, under the leadership of Dr. B. R. Ambedkar, understood that political freedom alone would have little meaning for people who lacked basic necessities, education, or social dignity.

With this understanding, they shaped a constitutional framework aimed at guiding India from

an unequal traditional society toward a more just and inclusive modern nation. This vision of transformation is implemented through three structured and interconnected pillars that work together to promote fairness and equality.

Pillar 1: Legislative Mandates (The Protective Role of Law)

The first pillar of social justice in India is formed by laws enacted by Parliament and State Legislatures. While the Constitution sets out the broader vision of equality and justice, legislation provides the practical means to achieve it. Through these laws, the State has attempted to correct long-standing social inequalities by creating protections that were absent for generations.

A. Protection Against Social Discrimination

One of the most important objectives of Indian legislation has been to challenge and weaken the legal and social foundations of the caste system.

The **Untouchability (Offences) Act, 1955**, marked a historic step by making the practice of untouchability a punishable offence. This law was later reinforced and renamed the **Protection of Civil Rights Act**, strengthening enforcement against discriminatory practices.

Building upon this effort, the **Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989** addressed the specific forms of violence, abuse, and humiliation faced by marginalized communities. The Act introduced special courts and fast-track trials to ensure effective justice and to prevent dominant social groups from exploiting vulnerable sections of society.

B. Gender Justice and Safety

For a long time, women's rights remained limited, especially under personal laws. Gradual legislative reforms have worked to correct these inequalities.

The **Hindu Succession (Amendment) Act, 2005** was a major milestone, as it granted daughters equal rights in ancestral property. This reform significantly advanced women's economic independence and social equality.

Similarly, the **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**, commonly known as the POSH Act, established a formal mechanism to address workplace harassment. By requiring Internal Complaints Committees in organizations, the law created safer working environments and enabled women to participate more confidently in public and economic life.

C. Economic Rights as Enforceable Entitlements

True social justice cannot exist without economic stability. Indian law has increasingly shifted from providing discretionary welfare to recognizing economic security as a legal right.

The **Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), 2005**, guarantees up to 100 days of wage employment to rural households. This law transforms employment from a government benefit into a statutory right, requiring compensation if work is not provided.

The **Right to Education Act, 2009**, further strengthens social justice by making free and compulsory education a legal obligation for children between the ages of 6 and 14. This ensures that access to education—and the opportunities it creates—is not limited by a family's financial status.

Pillar 2: Affirmative Action (Creating Equal Opportunities)

The second pillar of social justice in India is affirmative action, commonly referred to as the reservation system. Although it is one of the most debated aspects of Indian law, its purpose is to achieve *substantive equality*—equality that takes real-life disadvantages into account rather than treating everyone as if they began from the same position.

A. The Principle of Differential Treatment

Indian constitutional law does not support the idea that identical treatment automatically leads to fairness. When individuals begin life with vastly different social and economic conditions, treating them in exactly the same way can reinforce inequality. Affirmative action is based on the understanding that communities disadvantaged for generations require additional support in order to compete on equal terms. By offering such support, the law attempts to correct historical imbalances rather than ignore them.

A. Reservations in Education and Public Employment

Articles 15(4) and 16(4) of the Constitution empower the State to make special provisions for socially and educationally backward classes.

In the field of **education**, reservation policies ensure that access to premier institutions such as IITs, AIIMS, and public universities is not limited to economically and socially privileged groups. This promotes diversity and allows talented students from marginalized backgrounds to access quality education.

In **public employment**, reservations help ensure that government institutions reflect

the social diversity of the country. By enabling representation in services such as administration, policing, and public offices, the system encourages inclusive governance and broader participation in decision-making.

B. Political Representation

Social justice also demands that marginalized communities have a direct role in shaping laws and public policy.

To achieve this, seats are reserved for Scheduled Castes and Scheduled Tribes in the **Lok Sabha and State Legislative Assemblies**, ensuring their presence in legislative bodies.

Further, the **73rd and 74th Constitutional Amendments** strengthened grassroots democracy by reserving seats in Panchayati Raj Institutions and urban local bodies. A significant portion of these seats—initially 33 percent and now increased to 50 percent in many states—are reserved for women. This reform has brought millions of women into public leadership roles, marking a major shift in political participation at the local level.

Pillar 3: Judicial Activism (The Protector of Citizens' Rights)

The third pillar supporting social justice in India is the judiciary. In a country where large sections of the population face poverty, illiteracy, and limited access to legal resources, conventional legal procedures often make justice difficult to attain. Recognizing these barriers, Indian courts have adopted innovative approaches to make the justice system more accessible and responsive to the needs of ordinary citizens.

A. Public Interest Litigation (PIL)

During the 1980s, the Supreme Court introduced the concept of Public Interest Litigation to relax strict procedural rules. Under this system, if an individual or group is unable to approach the court due to poverty or social disadvantage, any concerned citizen or organization may file a petition on their behalf.

This approach also gave rise to *epistolary jurisdiction*, where letters, postcards, or communications sent by prisoners, activists, or social workers were accepted as valid legal petitions. Through PILs, courts have addressed a wide range of social issues, including the abolition of bonded labor, environmental protection of the Ganga River, implementation of mid-day meal schemes in schools, and safeguarding the rights of homeless and pavement dwellers.

B. The Basic Structure Doctrine and the Right to Dignity

The judiciary has repeatedly affirmed that social justice forms an essential part of the Constitution's Basic Structure, placing it beyond the reach of ordinary legislative amendment. This ensures that the core commitment to equality and fairness cannot be diluted by changing political priorities.

Through a broad interpretation of Article 21, which guarantees the Right to Life, the courts have emphasized that life means more than mere survival. It includes the right to live with dignity, encompassing freedoms such as privacy, access to healthcare, and the right to a clean and healthy environment.

C. Addressing Institutional Exclusion

Courts also play an active role in correcting institutional shortcomings by issuing writs such as *mandamus*, directing the government to fulfill its constitutional obligations. A notable example is the **NALSA judgment**, in which the Supreme Court recognized transgender persons as a distinct gender category and instructed the State to extend reservations and welfare benefits to them. This decision demonstrated how the judiciary can initiate legal and social reform in areas where legislative action has been delayed or overlooked.

The Synthesis of the Pillars: A Functional Framework for Social Justice

Within the Indian constitutional framework, social justice is not achieved through the efforts of any single institution. Instead, it arises from the continuous and coordinated interaction among the three organs of the State—the legislature, the executive, and the judiciary. These pillars function in close connection with one another, forming a responsive and self-correcting system that converts constitutional ideals into real and enforceable rights.

This interaction may be understood as a practical “cycle of justice,” in which rights are first created through legislation, effectively implemented through inclusive governance, and finally protected through judicial oversight.

1. Legislative Initiation: Creating Legal Rights

The process begins with the legislature identifying structural inequalities or social gaps, such as limited access to education or a lack of transparency in public administration. In response, Parliament enacts laws like the Right to Information Act or the Right to Education Act, which formally recognize these needs as legal entitlements. However, the mere existence of a law does not guarantee its success. For these rights to be

meaningful, they must be carried out by institutions that understand the realities of the communities they serve.

2. *Executive Representation: Inclusive Implementation*

This is where affirmative action plays a vital role. Effective implementation of social justice laws depends on a public administration that reflects the diversity of Indian society.

Reservation policies in public employment help ensure that officials responsible for implementing laws—such as those handling RTI applications or overseeing school admissions under the RTE—come from varied social and economic backgrounds.

The strength of this approach lies in its impact on governance. A representative bureaucracy is more likely to implement laws with empathy and awareness, ensuring that the underlying purpose of social justice legislation is not diluted during execution.

3. *Judicial Oversight: Ensuring Accountability*

The final link in this framework is the judiciary, which acts as a mechanism of accountability. Even well-drafted laws and inclusive administrative systems can fail in practice due to neglect, misuse of power, or institutional inefficiencies. The judiciary provides citizens with a forum to challenge such failures.

Through tools such as Public Interest Litigation, courts examine the actions of both the legislature and the executive. They may direct authorities to comply with existing laws, correct administrative wrongdoing, or highlight deficiencies that require legislative attention. In this way, the judiciary ensures that social justice remains a living constitutional commitment rather than a symbolic promise.

Obstacles to the Realization of Social Equity

While the Indian legal architecture is theoretically robust, several structural and societal bottlenecks prevent these "pathways" from being accessible to all. The transition from "law on paper" to "justice on the ground" is hindered by the following contemporary challenges:

1. *The Emergence of Digital Stratification*

The modernization of the Indian legal system has introduced a "technological gatekeeping" effect. As the judiciary adopts **e-Courts**, virtual hearings, and digital filing systems to increase efficiency, a new form of **digital exclusion** has surfaced. For citizens in rural heartlands or those living below the poverty line, the lack of high-speed internet, smartphones, and technical literacy creates a formidable barrier. When

justice requires a digital footprint, those on the wrong side of the digital divide find themselves further alienated from the grievance redressal mechanism.

2. *Systemic Inertia and Judicial Pendency*

One of the most significant barriers to social justice is the sheer volume of **unresolved litigation**. The Indian judiciary is currently grappling with a backlog of over 50 million cases. For a marginalized individual, a legal battle that spans decades is not a pathway to justice but a cycle of exhaustion.

- **Economic Strain:** Protracting legal battles disproportionately affects the poor, who cannot sustain the loss of wages and high legal fees over long periods.
- **Erosion of Deterrence:** When the SC/ST Act or labor laws are not enforced swiftly, the fear of legal consequences diminishes, emboldening those who perpetrate social injustice.

3. *The Friction Between Legality and Social Custom*

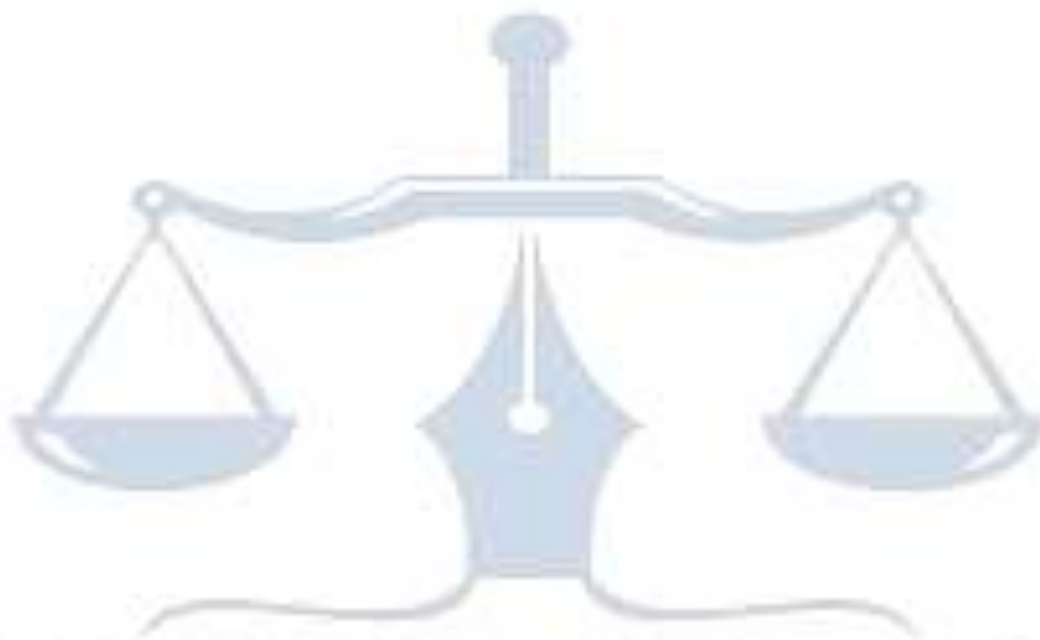
There exists a profound "cultural lag" where the nation's laws have outpaced its social conscience. While the **Legislature** can abolish practices like dowry, untouchability, or gender-based exclusion overnight, these behaviors often remain embedded in the communal psyche.

- **Informal Power Structures:** In many regions, traditional "Khap Panchayats" or local hierarchies hold more sway than formal courts, often leading to the suppression of legal rights through social boycott or communal pressure.
- **Patriarchal Resistance:** Despite laws granting women equal property rights and protection from harassment, social norms often discourage women from exercising these rights to maintain "family honor" or social harmony.

CONCLUSION

India's legal approach to social justice marks a significant transformation from a rigid, hierarchical social order to a constitutional democracy founded on the principle of substantive equality. Through the combined functioning of protective laws, affirmative action policies, and an active judiciary, the State has embraced social justice as a continuing responsibility rather than a distant moral goal. Although challenges such as technological exclusion and judicial delays continue to affect access to justice, the strength of India's legal framework lies in its capacity to evolve in response to changing social needs. The true measure of success, however, rests on narrowing the gap between legal guarantees and lived experience, so that

the ideals of equality, dignity, and fairness are meaningfully realized for every individual, especially those at the margins of society.



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